

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Education Committee

BILL: CS/SB 2558

INTRODUCER: Education Committee and Senator Saunders

SUBJECT: Student Transfers/Athletics

DATE: April 19, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	Matthews	ED	Fav/CS
2.				
3.				
4.				
5.				
6.				

I. Summary:

The bill delays the effective date until July 1, 2007, for implementing the Florida High School Athletic Association's (FHSSA) revised bylaws for the residence and transfer of student athletes. The bill also creates a student athlete recruiting task force to review issues related to recruiting secondary school student athletes. The bill provides for the appointment of task force members and staff for the task force. The task force's recommendations must be submitted to the presiding officers of the Legislature and the Governor by January 1, 2007.

In addition, the Office of Program Policy Analysis and Government Accountability must independently review secondary school recruiting violations among FHSSA's member schools. To support the task force's work, the bill provides an appropriation of \$60,000 from General Revenue to fund OPPAGA in 2006-2007.

This bill creates an undesignated section of the Florida Statutes.

The bill takes effect upon becoming a law.

II. Present Situation:

Florida High School Athletic Association (FHSSA)

Organization and Structure

Under current law, the Florida High School Athletic Association, a nonprofit organization, governs athletics in Florida's public schools.¹ The association was established in law in 1997.² The FHSSA's membership is divided along existing county lines into four contiguous administrative regions, each containing an equal or nearly equal number of member schools to ensure equitable representation on the board of directors, representative assembly, and committee on appeals. The representative for each member school must be either the school principal or the assistant principal or athletic director designated by the principal. A private school that wishes to engage in high school athletic competition with a public high school may become a member of the association. According to the FHSSA, there are 700 member schools. Of these schools, approximately 467 are public schools and 233 are private schools.³

The FHSSA board of director's authority and duties include the following:

- Establishing guidelines, regulations, policies, and procedures authorized in the bylaws;
- Organizing and conducting statewide interscholastic competitions, which may or may not lead to state championships;
- Establishing the terms and conditions for competitions; and
- Acting as an administrative board in the interpretation of, and final decision on, all questions and appeals arising from directing interscholastic athletics of member schools.

FHSSA bylaws govern high school athletic programs in member schools and the students who participate in them, unless otherwise specifically provided by statute.⁴ The FHSSA must adopt bylaws that include the following:

- Establishing eligibility requirements for all students who participate in high school athletic competition in its member schools;⁵
- Specifically prohibiting the recruiting of students for athletic purposes; and
- Prescribing penalties and an appeals process for athletic recruiting violations.

The bylaws governing residence and transfer must allow the student to be eligible in the school in which he or she first enrolls each school year, or makes himself or herself a candidate for an athletic team by engaging in a practice prior to enrolling in any member school. The student must be eligible in that school so long as he or she remains enrolled in the school. Subsequent eligibility must be determined and enforced through the organization's bylaws.

¹ Section 1006.20, F.S., formerly ss. 232.60-232.68, F.S. The organization is not a state agency as defined in s. 120.52, F.S. If the association fails to meet the statutory requirements, the Commissioner of Education, with the approval of the State Board of Education, must designate another nonprofit organization to govern athletics.

² Chapter 97-53, L.O.F.

³ April 12, 2006.

⁴ High school includes grades 6 through 12, pursuant to s. 1006.20(1), F.S.

⁵ Unless specifically provided by statute.

The FHSSA must establish a procedure of due process to ensure each student the opportunity to appeal an unfavorable ruling related to his or her eligibility to compete. The initial appeal must be made to an appeals committee within the administrative region in which the student lives. The appeals committee has the following duties:

- To consider requests by member schools seeking exceptions to bylaws and regulations;
- To hear undue hardship eligibility cases filed by member schools on behalf of student athletes; and
- To hear appeals filed by member schools.

A student athlete or member school that receives an unfavorable ruling from an appeals committee is entitled to appeal the decision to the board of directors. The board may uphold, reverse, or amend the committee's decision. In all cases, the board's decision is final.

Recently Adopted Bylaws for Residence and Transfer of Student Athletes

The FHSSA recently adopted revised bylaws.⁶ Effective July 1, 2006, the bylaws require a student athlete to participate at the sub-varsity level⁷ for one calendar year, if the student transfers from his or her school of residence to a different school.⁸ This revision applies to students in grades 9 through 12. During the one-year period, the student establishes residence at the new school.

There are exceptions to this policy, including students who transfer as a result of a change in address by the student and his or her parents that require the student to attend another school. The policy may be waived by the FHSSA commissioner, based upon one or more of the following circumstances:

- The school to which the student transfers is one to which the student had applied upon initial entry into the ninth grade but was denied admission because the school or special program offered at the school was at capacity, and to which the student has now been accepted due to a vacancy, provided the student enrolls in the school or special program at the first opportunity;
- The school to which the student transfers offers a magnet or other special program that starts in a grade higher than the ninth grade, provided the student applies for, is accepted to and enrolls in the program at the first opportunity;
- The school in which the student was enrolled is designated as a failing school by the Florida Department of Education, provided the school was not designated as a failing school at the time of the student's enrollment, the transfer is to a school that is not designated as a failing school, and the transfer occurs at the first opportunity;

⁶ The bylaws were adopted by a vote of 44-8, according to the FHSSA. See <http://www.fhsaa.org/compliance/files/2006-6.htm>.

⁷ Sub-varsity means any level of interscholastic athletic competition subordinate to varsity that is offered by a school. Sub-varsity includes but is not limited to B-team, junior varsity and freshman programs in grades 9-12 high schools, as well as middle school programs in kindergarten through grade 12 and grades 6-12 high schools. (Section 11.02.11.1 of the bylaws)

⁸ The first school in which a student enrolls upon entering 9th grade is the student's school of residence. (Section 11.02.3 of the bylaws)

- The transfer is at the initiative and order of the district school board for other than athletic or disciplinary reasons, and was not the result of a request by the student or his or her parent;
- The student undergoes a necessary relocation from the home of his or her parent at one address to the home of another individual at a different address that makes it necessary for the student to attend a different school;
- The student following his or her emancipation by marriage, court order, or reaching the age of majority establishes a separate household at a different address that makes it necessary for the student to attend a different school;
- The student is a ward of the court or state and is required to relocate to a new address that makes it necessary for the student to attend a different school;
- The student who attends a private school, because of a financial hardship beyond the control of the family, is no longer able to afford the tuition and must transfer to a different school;
- The home education cooperative in which the home-educated student participated is dissolved and the student registers to participate at another home education cooperative or school; or
- The principals of both the student's old and new schools (provided both schools are members of the FHSSA) certify that the transfer is in the best educational interest of the student, is not motivated by reasons relating to athletic participation or disciplinary action, and is not the result of recruitment.

The FHSSA commissioner reviews the request and determines if the exception applies and the waiver is justified. A waiver may only be granted once during a student's four-year limit of eligibility.⁹ There is an appeals process for schools that are denied a waiver. An undue hardship hearing may also be requested.

III. Effect of Proposed Changes:

The bill delays the effective date until July 1, 2007, for implementing the FHSSA's revised bylaws for the residence and transfer of student athletes. The bill also creates a student athlete recruiting task force to review issues related to recruiting secondary school student athletes. The bill provides for the appointment of task force members that represent home school and public and private secondary school proponents and opponents of the bylaw revisions. The bill requires the task force's recommendations to preserve a parent's right to school choice while concomitantly protecting the integrity of the state's interscholastic athletic programs. The task force is staffed by the Office of Program Policy Analysis and Government Accountability (OPPAGA).

The task force must consider specific issues that include the definition of recruiting, procedures for recruiting student athletes, past recruiting practices and violations, the impact of recruiting rules on parental school choice, strategies to prevent improper recruiting, and penalties for violations. The task force recommendations must be submitted to the presiding officers of the Legislature and the Governor by January 1, 2007.

⁹ Section 11.4.4 of the bylaws.

In addition, OPPAGA must independently review secondary school recruiting violations among FHSSA's member schools. To support the task force's work, the bill provides an appropriation of \$60,000 from General Revenue to fund OPPAGA in 2006-2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Under the bill, task force members may be reimbursed for per diem and travel expenses in accordance with s. 112.061, F.S. The cost is indeterminate at this time. The task force is staffed by the Office of Program Policy Analysis and Government Accountability. The bill provides for an appropriation of \$60,000 from General Revenue to fund OPPAGA in 2006-2007.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
